

### **367.380 Definitions for KRS 367.380 to 367.389.**

As used in KRS 367.380 to 367.389, unless the context requires otherwise:

- (1) "Advance fee" means any consideration which is assessed or collected, prior to the closing of a loan, by a loan broker.
- (2) "Affiliate" means any person who directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with another person.
- (3) "Borrower" means a person obtaining or desiring to obtain a loan of money, a credit card, or a line of credit;
- (4) (a) "Loan broker" means any person, not exempt under paragraph (b), who:
  1. For or in expectation of consideration arranges, attempts to arrange, or offers to fund a loan of money, a credit card, or a line of credit;
  2. For or in expectation of consideration assists, or advises a borrower in obtaining or attempting to obtain a loan of money, a credit card, a line of credit, or related guarantee, enhancement, or collateral of any kind or nature;
  3. Acts for or on behalf of a loan broker for the purpose of soliciting borrowers; or
  4. Holds himself out as a loan broker.
- (b) The following persons shall not be considered loan brokers under paragraph (a):
  1. A bank; savings and loan association; trust company; credit union; consumer loan company; investment company; industrial loan company; securities broker-dealer, agent, or investment adviser; real estate broker or sales associate; attorney; Federal Housing Administration or Veterans Administration approved lender; credit card company; mortgage loan company; mortgage loan broker; public utility; insurance company; or insurance agent, solicitor, consultant, motor vehicle manufacturer, or motor vehicle dealer, if it is licensed by and subject to regulation or supervision of an agency, commission, or department of the United States or the Commonwealth, and if it is acting within the scope of its license, permit, or registration or with express written authority from the regulatory or supervising agency. Subsidiaries of licensed or chartered consumer loan companies, banks, or savings and loan associations are not loan brokers.
  2. A person extending or arranging credit, or offering to extend or arrange credit, to a partnership or corporation exclusively for commercial or business purposes;
  3. A depository financial institution chartered or licensed by an agency, commission, or department of another state, if the funds on deposit with the institution are insured by the Federal Deposit Insurance Corporation;
  4. An affiliate of a person listed in subparagraph 2; or

5. A bona fide seller or lessor of goods, services, or interests in real estate in a transaction in which the seller or lessor extends, arranges, or offers to extend or arrange credit that is to be used exclusively for financing the purchase or lease or for services performed by an independent third party directly related to the purchase or lease. A transaction shall not be exempt under this subparagraph if the purchaser or lessee receives, or is to receive, a cash advance or consolidation loan in addition to the financing;
- (5) "Principal" means any officer, director, partner, joint venturer, branch manager, or other person with similar managerial or supervisory responsibilities for a loan broker.

**Effective:** July 14, 1992

**History:** Created 1992 Ky. Acts ch. 301, sec. 1, effective July 14, 1992.